

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

Civil Action No. 08-CV-125

DIANNA JENKINS,

Plaintiff,

v.

ALLIED INTERSTATE INC.,

Defendant.

NOTICE OF REMOVAL

Defendant, Allied Interstate, Inc., by and through its undersigned counsel, hereby gives notice of the removal of this case from the Superior Court of Iredell County, North Carolina, to the United States District Court for the Western District of North Carolina (Statesville Division), pursuant to 28 U.S.C. §§ 1332, 1441, and 1446:

1. Allied Interstate, Inc. is the Defendant in an action filed by Plaintiff, Dianna Jenkins, in the Superior Court of Iredell County, North Carolina, (Case No. 08 CvS 3071).

2. Any civil action filed in a state court, over which a federal district court would have original jurisdiction, shall be removable by a defendant to the district court of the United States for the district and division where the action is pending. 28 U.S.C. § 1441(a) & (b).

3. Federal district courts have original jurisdiction over all civil actions between citizens of different States where the amount in controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C. § 1332(a). A civil action is removable only if

the defendant is not a citizen of the State in which such action is brought. 28 U.S.C. § 1441(b).

4. A corporation is a citizen of any state where it is incorporated and of the state where its principal place of business is located. 28 U.S.C. § 1332(c)(1). Defendant Allied Interstate, Inc. is a Minnesota corporation with its principal place of business in Columbus, Ohio.

5. Because the amount in controversy in this case exceeds \$75,000, as alleged in Plaintiff's Complaint, and because Plaintiff is a citizen and resident of North Carolina, removal to federal district court is permissible.

6. This is a timely Notice of Removal. The Complaint was served on Defendant on September 26, 2008. Pursuant to 28 U.S.C. § 1446(b), Defendant files this Notice of Removal within thirty days of the date the Complaint was served.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391.

8. Concurrently with this filing, Defendant is giving written notice of the filing of this Notice of Removal to the Clerk of the Superior Court of Iredell County, North Carolina, and to Plaintiff, as required under 28 U.S.C. § 1446(d), by filing a Notice of Filing of Notice of Removal with the Superior Court of Iredell County, North Carolina, and serving a copy of the same upon the Plaintiff. Exhibit 1 hereto is a true and correct copy of the Notice of Filing of Notice of Removal.

9. Exhibits 2 and 3 are copies of the Complaint and Civil Summons, which are submitted in accordance with 28 U.S.C. § 1446(a). To the best of Defendant's knowledge, no papers, except the Complaint, Civil Summons, Notice of Filing of Notice

of Removal, and this Notice of Removal, have been served on or by any of the parties as of the date of this filing.

WHEREFORE, Defendant hereby gives notice that this action is removed to the United States District Court for the Western District of North Carolina (Statesville Division), in accordance with the provisions of the United States Code.

Respectfully submitted, this 24th day of October, 2008.

/s/ Stuart C. Gauffreau

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of October, 2008, a copy of the foregoing Notice of Removal was mailed first class, postage prepaid, to the *pro se* Plaintiff addressed as follows:

Dianna Jenkins
104 Kilborne Road
 Mooresville, North Carolina 28117

Hagan Davis Mangum Barrett Langley & Hale, PLLC

By: /s/ Stuart C. Gauffreau
Stuart C. Gauffreau